IN THE SUPREME COURT OF THE STATE OF NEVADA

REGINALD STEWART A/K/A
REGINALD DESHON STEWART,
Appellant,
   vs.
THE STATE OF NEVADA,
Respondent.

No. 41441

ORDER AFFIRMING AND REMANDING TO CORRECT JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of conspiracy to commit robbery (Count I), two counts of robbery with the use of a deadly weapon (Counts II and IV), one count of burglary while in possession of a firearm (Count III), and one count of possession of a firearm by an ex-felon. The district court sentenced appellant: for Count I, to a prison term of 19 to 48 months; for Count II, to a prison term of 26 to 120 months, with an equal and consecutive term for the use of a deadly weapon; for Count III, to a prison term of 26 to 120 months; and for Count IV, to a prison term of 26 to 120 months, with an equal and consecutive term for the use of a deadly weapon. The district court sentenced appellant for possession of a firearm by an ex-felon, to a prison term of 19 to 48 months. The district court further ordered Counts II, III, and IV, to run concurrently with Count I, and ordered the term for ex-felon in possession of a firearm to run consecutive to Counts II, III, and IV.

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada

constitutions because the sentence is disproportionate to the crime.[1] We disagree.

The Eighth Amendment does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime.[2] Regardless of its severity, a sentence that is within the statutory limits is not "'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'"[3]

This court has consistently afforded the district court wide discretion in its sentencing decision.[4] This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."[5]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed

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[1]Appellant primarily relies on Solem v. Helm, 463 U.S. 277 (1983).

[2]Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

[3]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

[4]See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[5]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

was within the parameters provided by the relevant statutes.[6] Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction states that appellant was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Therefore, we conclude that this matter must be remanded to the district court for the limited purpose of entering a corrected judgment of conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED AND REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction as directed above.

_____, J.
Rose

_____, J.
Leavitt

_____, J.
Maupin

cc: Hon. John S. McGroarty, District Judge
       Clark County Public Defender
       Attorney General Brian Sandoval/Carson City
       Clark County District Attorney David J. Roger
       Clark County Clerk

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[6]See NRS 200.380(2); NRS 199.480(1)(a); NRS 193.165(1); NRS 205.060(4); NRS 202.360(3).